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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/767,356
Filing Date: January 28, 2004
Appellant(s): PATTERSON ET AL.

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Jed W. Craven
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 13, 2009 appealing from the Office

action mailed October 27, 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

(6) The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Tohyama (Pub. No. US 2002/0091645 A1)

Mutschler et al. (Pub. No. US 2002/0069148 A1)

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1.   Claims 1-7, 9-13, 35-41, and 43-47 are unpatentable under 35 U.S.C. 102(b)

as being anticipated by Tohyama (Pub. No. US 2002/0091645 A1) (hereafter

referred to as Tohyama).

In regards to **Claims 1 and 35**, Tohyama disclose:

A system and method of computing, comprising: at a processor in a storage

network: receiving a service request from a user of the storage network; ([0009], lines

9-20, *shows a service request being submitted (pass containing function, term, number*

of times, etc.))

determining an amount of credit available on a local media for the user of the

network; ([0053], lines 29-45, *shows the determination of the amount of previously*

purchased time that remains and [0049], lines 1-11)

implementing the service request at the processor when the amount of credit is

sufficient to execute the service request; ([0086], *shows access granted for time*

remaining on license; [0049], lines 1-11; and [0053], lines 33-45, *shows services*

implemented in exchange for payment) and

when the amount of credit is insufficient to execute the service request; ([0049],

lines 1-11, *shows use of credit information saved on a* media, and [0053], lines 33-45,

shows services implemented in exchange for payment)

generating, in response to the received service request, a token request for a

service token; (Fig. 9; fig. 10; and [0106], lines 9-25, *shows response to insufficient*

funds being returned in which a request is returned to the user who is then given the

opportunity to render the account "sufficient"; and [0009], lines 9-20) and

transmitting the token request to a server communicatively connected to the

storage network; and at the server: (Fig. 9; fig. 10; and [0106], lines 9-25, *shows*

response to insufficient funds being returned in which a request is returned to the user

who is then given the opportunity to render the account "sufficient"; and [0009], lines 9-

20)

validating the token request; ([0106], lines 19-25, *once the user has performed*

the task necessary to render the status "valid", the validation/approval process is

performed the same as above (the same as when the status is originally "valid"); and

[0009], lines 9-20)

transmitting to the processor a response to the validated token request; ([0106],

lines 19-25, *once the user has performed the task necessary to render the status*

"valid", the validation/approval process is performed the same as above (the same as

when the status is originally "valid"); and [0009], lines 9-20) and

invoking the service request when, the response to the token request includes at

least one service token. ([0106], lines 19-25, *once the user has performed the task*

necessary to render the status "valid", the validation/approval process is performed the

same as above (the same as when the status is originally "valid"); and [0009], lines 9-

20)

In regards to **Claims 2 and 36**, Tohyama disclose:

A system and method of computing, wherein the service request is generated by

at least one of a user of a device in the storage network or by a processor

communicatively connected to the storage network. ([0009], lines 9-20)

In regards to **Claims 3 and 37**, Tohyama disclose:

A system and method of computing, wherein the service request comprises a

request for at least one of a data mirroring service, a remote copy service, a back-up

service, a recovery service, or a LUN extension service. ([0009], lines 9-20)

In regards to **Claims 4 and 38**, Tohyama disclose:

A system and method of computing, wherein generating a token request

comprises retrieving at least one account identifier for an account associated with a

device in the storage network. ([0009], lines 9-20 and S216 and 0124, lines2-6)

In regards to **Claims 5 and 39**, Tohyama disclose:

A system and method of computing, wherein generating a token request

comprises incorporating into the token request information identifying the service

request. ([0009], lines 9-20)

In regards to **Claims 6 and 40**, Tohyama disclose:

A system and method of computing, wherein validating the token request

comprises validating the at least one account identifier associated with the service

request. ([0009], lines 9-20 and S216 and [0124], lines2-6)

In regards to **Claims 7 and 41**, Tohyama disclose:

A system and method of computing, wherein validating the token request

comprises determining whether the account associated with the at least one account

identifier comprises sufficient credit to receive a token. ([0051], lines14-17)

In regards to **Claims 9 and 43**, Tohyama disclose:

A system and method of computing, wherein the response to the token request

comprises at least one of: an account identifier; an account balance; a code,

decipherable by the processor, granting or denying permission to invoke the service

call; and a software module, executable by the processor, for invoking the service call.

([0009], lines 9-20 and S216 and [0124], lines2-6)

In regards to **Claims 10 and 44**, Tohyama disclose:

A system and method of computing, further comprising updating account

information at the processor in the storage network. ([0098], lines25-26)

In regards to **Claims 11 and 45**, Tohyama disclose:

A system and method of computing, wherein the response to the token request comprises a software module, executable by the processor, for invoking the service call. ([0014], [0048], and [0086], *shows software that performs steps up to and including invocation of a service call (making requested software accessible)*)

In regards to Claims 12 and 46, Tohyama disclose:

A system and method of computing, wherein the processor in the storage network;

Receives the response to the token request; ([0086], lines 9-14, *shows a response to a pass (token)*) and

executes the software module to invoke the service request. ([0086], lines 9-14, *shows software invoking a service call (making requested software accessible) due to a response to a request*)

In regards to **Claims 13 and 47**, Tohyama disclose:

A method of implementing fee-based storage services, wherein the processor maintains account information associated with one or more storage devices, and wherein the processor updates account information to reflect execution of the service request. ([0124], lines 23-27, *shows account being "updated to reflect execution of the service request" ("updates license validity") wherein the account information is associated with a storage device (database on the server)*)

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 8 and 42 are unpatentable under 35 U.S.C. 103(a) over Tohyama, in

view of Mutschler et al. (Pub. No. US 2002/0069148 A1) (hereafter referred to as

Mutschler).

In regards to **Claims 11 and 45**, Tohyama disclose:

Tohyama discloses a system and method of computing, as applied above in the

rejection of claims 1, 4, 5, and 7 under 35 U.S.C. 102(b), but Tohyama does not

disclose retrieving information from a third-party credit bureau. However, Mutschler

teaches a similar system that also includes:

A system and method of computing, further comprising retrieving information

from a third-party credit bureau (0015, lines 5-9).

Therefore, it would have been obvious to one of ordinary skill in the art, at the

time of the invention, to have modified the system of Tohyama to include retrieving

information from a third-party credit bureau , in accordance with the teachings of

Mutschler, in order to accurately and efficiently manage user accounts.

(10) Response to Argument

Appellants claims are drawn to a system and method in which a user may access

services in response to sufficient credit being available in their account.

First, a service request is issued by the user. Second, the amount of credit the user has available is determined. If the credit is sufficient, the service request is implemented. If the credit is insufficient, a service token request (response to the service request) is returned to be validated. The validated token request is then used to implement the service.

Appellant argues that the Tohyama reference does not disclose or suggest **"determining an amount of credit available on a local media for the user of the network"**.

Tohyama discloses, in paragraph **[0053], lines 29-45**, where **a set amount of "validity" (time or credit) is purchased and subsequently adjusted based on the amount of time that has been used**. "*A "license term/number of times of use" is data* *indicating the time element of the license, in which the software provider sets…A "license fee" is a* *monetary amount, and a "charging method", which is a method of* *payment thereof…the "pass term and number of times of use" stipulate how to adjust the remaining amount of the license validity…*"

Appellant argues that the Tohyama reference does not disclose or suggest **"implementing the service request at the processor when the amount of credit is sufficient to execute the service request"**.

Tohyama discloses, in paragraph **[0086], providing a service when the amount of validity (credit) is sufficient**. "*…indicates "Valid", and the remaining amount of the pass* **still has some amount remaining***… creates command data to* **approve the running of the application** *ID…*"

Appellant argues that the Tohyama reference does not disclose or suggest *"generating, in response to the received service request, a token request for a service token, transmitting the token request to a server communicatively connected to the storage network"*.

Tohyama discloses, in paragraph **[0106], lines 9-15, returning a request for service**, when the amount of validity is insufficient. *"…remaining amount of times=0 times", so the license data is judged to be "Invalid"… **sends the license menu to the user terminal…**"* The license menu is transmitted to the user, so that the user can perform any necessary tasks in order to change the current standing from "invalid" to "valid" and receive a new attempt at using the service.

Appellant argues that the Tohyama reference does not disclose or suggest *"validating the token request, transmitting to the processor a response to the validated token request, invoking the service request when, the response to the token request includes at least one service token"*.

Tohyama discloses, in paragraph **[0106], lines 15-25**, that once the user has performed the necessary tasks to render the status as "valid"; **the validity is tested, the request is transferred, and the service is invoked** in the same manner as when the validity is originally "valid". *""…the user agreement is performed…In this agreement process, in the case where the user is to make a continued purchase of the same application ID "e-1", it is **sufficient if the user agrees to/selects the same application ID "e-1"** again…After that, the **issuing of the license data…issuing of the pass… the verification of the pass…are carried out in the same way <u>as described above</u>,***

*producing the result that the software corresponding to the **application ID "e-1" can be**
used".

"***As described above***" refers to the activities as performed above in paragraphs
[0053] (lines 29-45) and **[0086]**.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the
Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/S. S./

Examiner, Art Unit 3629

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